

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JULIE KELLY,

Plaintiff,

v.

FIRST DATA CORPORATION,

Defendant.

Civil Case No. 1:19-cv-00372

District Judge Douglas R. Cole
Magistrate Judge Stephanie Bowman

**FIRST DATA'S PROPOSED STATEMENT OF UNDISPUTED MATERIAL FACTS
IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

Defendant, First Data Corporation (First Data), submits this Proposed Statement of Undisputed Material Facts in Support of its Motion for Summary Judgment:

Procedural History

1. On October 28, 2020, First Data served its First Set of Requests for Admission (RFA) by email and first class mail on Plaintiff Julie Kelly (Kelly). A true and correct copy of the email, RFA, and certificate of service is attached as Exhibit A.

2. Over a month after Kelly's responses to the RFA were due, First Data followed up with Kelly on January 4, 2021 to give her a second chance to respond to the RFA. A true and correct copy of the email, certificate of service, and attachment is attached as Exhibit B.

3. In the January 4, 2021 email, First Data's counsel wrote to Kelly:

Per the email below from October 28, your responses were due within 30 days of service. This email is to confirm that we did not receive a response.

Id.

4. On January 25, 2021, First Data filed a motion pursuant to Rule 36, asking the Court to deem the RFA as admitted. ECF No. 54.

5. Kelly's response or opposition to First Data's motion was due on February 16, 2021, but she did not respond or oppose First Data's motion. ECF No. 55 at PAGEID ("p.") 713.

6. On March 2, 2021, the Court issued an Order to Show Cause, ordering Kelly to respond by March 15, 2021, to the question as to "why the long-overdue requests for admission should not be deemed to be admitted under Rule 36(a)(3)." ECF No. 55 at p. 714.

7. Kelly did not respond to the Order to Show Cause. ECF No. 56 at p. 716 ("Plaintiff has now failed to file any response to this Court's show cause order.").

8. On April 12, 2021, the Court ordered that the RFA have been admitted by Kelly. ECF No. 56.

Kelly's Employment with First Data

9. From November 2016 until November 30, 2017, Robin Ording, Vice President of Talent Development for First Data, was Kelly's supervisor. ECF No. 1 at p. 12, ¶ 92; Affidavit of Robin Ording (Ording Aff.), attached as Exhibit C, ¶¶ 4-6.

10. Following the birth of a child in March 2015, Kelly never requested a reasonable accommodation for a disability from First Data through the remainder of 2015 or in 2016 or 2017. Ex. A, RFA Nos. 1-3, 11-13, 21-23; Ex. C, Ording Aff., ¶ 8.

11. Kelly did not suffer from any disability from March 2015 through 2017 that prevented her from driving to work at First Data's office. Ex. A, RFA Nos. 4-5, 7-8, 14-15, 17-18, 24-25, 27-28.

12. The reason Kelly wanted to work from home was not due to a disability or need for an accommodation, but instead was because Kelly disliked the length of her commute to work and preferred to stay home with her children. Ex. A, RFA Nos. 9-10, 19-20, 29-30.

13. Once Ording became Kelly's supervisor in November 2016, Kelly never advised Ording that she had been previously granted an accommodation due to a disability. Ex. C, Ording Aff., ¶ 9.

14. Had Kelly been granted an ongoing accommodation due to a disability, the Human Resources Department would have advised Ording of that accommodation. Ex. C, Ording Aff., ¶¶ 11-12.

15. Kelly, however, never advised First Data that she suffered from a disability from March 2015 through 2017 by submitting a Workplace Adjustment Form. Ex. A, RFA Nos. 6, 16, 26; Ex. C, Ording Aff., ¶ 7.

16. On November 14, 2017, Kelly resigned from her employment with First Data. ECF No. 1, ¶ 150 at p. 19; Ex. C, Ording Aff., ¶ 14.

17. When Kelly notified Ording of her voluntary resignation in November 2017, Kelly stated it was due to personal and family issues and her desire to spend more time with her family. Ex. C, Ording Aff., ¶¶ 12-14.

18. Ording suggested that Kelly could instead request a leave of absence or to temporarily work from home, which Kelly declined. Ex. C, Ording Aff., ¶¶ 12-14.

19. Kelly's employment with First Data ended effective November 30, 2017. Ex. C, Ording Aff., ¶ 12-14; ECF No. 1 at p. 20, ¶ 155.